

Notice of Allowability

Application No.

09/834,651

Examiner

Shobha Kantamneni

Applicant(s)

FUKUDA ET AL.

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 03/16/2005.
2. ☒ The allowed claim(s) is/are 1,3,6-8 and 12. (renumbered as claims 1, 2, 3-5 and 6)
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert Stanley on 03/28/04.

The application has been amended as follows:

1. Amend claim 1 by inserting in line 1, before flaky α -alumina particles

A composition comprising

2. Amend claim 1 by deleting in line 8, before the weight of

when

3. Amend claim 1 by inserting in line 8, after alumina particles,

wherein

4. Amend claim 6 by inserting in line 1, after cosmetic

composition

5. Amend claim 6 by deleting in line 7, before the weight of

when

6. Amend claim 6 by inserting in line 7, after alumina particles,

wherein

7. Amend claim 7 by inserting in line 1, after cosmetic

composition

8. Amend claim 8 by inserting in line 1, after cosmetic

composition

9. Amend claim 12 by inserting in line 1, after cosmetic

composition

The following is an examiner's statement of reasons for allowance:

Applicant's Amendment to claim 1 and 6 by changing the limitation for average major diameter of 0.5 to 25 μm to 2.0 to 25 μm , and by incorporating "an average thickness of 0.01 to 0.2 μm " in independent claims 1 and 6, in the Response filed on 11/05/2004 overcomes the rejection of claims 1, 3, 6-8, and 12 under 35 U.S.C 103(a) as being unpatentable over Shibasaki et al. (US 5,587,010) in view of Fukuda et al. (6,197,277).

The present invention is directed toward a composition comprising flaky α -alumina particles having an average major diameter of 2.0 to 25 μm , an average thickness of 0.01 to 0.2 μm , an aspect ratio of 55-2000, wherein the particles are produced by employing a source material that will introduce phosphate ions, and will result in a phosphoric compound.

The composition of the present invention comprises high aspect ratio flaky α -alumina particles and exhibit good particle dispersibility when used as fillers in rubbers, plastics or in coatings. Also the claimed composition comprising flaky α -alumina particles when used in cosmetics gives unique properties such as good tackiness to the skin, good smoothness, and has suitable gloss and luster with a natural transparent feel

The closest prior art reference, Shibasaki et al. '010 disclose a composition comprising flaky alumina particles with a diameter of 1 μm or less and a thickness of 0.1 μm or less. The reference lacks a teaching of phosphoric compound, and also the diameter is outside the range of the instant invention. Further Fukuda et al. '277 disclose α -alumina particles having a particle size of 0.2 to 15 μm , and restricts its teaching to an aspect of 15 to 50. Neither Shibasaki et al. nor Fukuda et al. teach or suggest the instant limitations for the flaky α -alumina particles. Thus they would not be any motivation to modify or combine the references to achieve the instant claimed composition, which has unique properties.

Thus the present invention is novel and unobvious over the prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shobha Kantamneni whose telephone number is 571-272-2930. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'S. Padmanabhan', with a horizontal line underneath the name.

**SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER**